



**State of New Hampshire**  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456

April 12, 2001



**CERTIFIED MAIL # 7099 3400 0003 0565 5110**  
**RETURN RECEIPT REQUESTED**

Board of Selectmen  
Town of Harrisville  
PO Box 34  
Harrisville, NH 03450

**SUBJECT: ADMINISTRATIVE ORDER NO. WMD 01-04**

Dear Members of the Board

Enclosed is Administrative Order WMD 01-04 issued this date to the Town of Harrisville.

This Order is issued for violations of New Hampshire RSA 149-M:9,X, federal regulation 40 CFR Part 258.74 and NH Administrative Rule Env-Wm 3103, part of the NH Solid Waste Rules.

Should you have any questions regarding this Order, please contact Patricia Juranty of the Solid Waste Management Bureau, at 271-2925.

Sincerely,

**COPY**

Richard S. Reed  
Administrator  
Solid Waste Management Bureau  
Waste Management Division  
Department of Environmental Services

Enclosure: Administrative Order 01-04

cc: Constance Boyd, Treasurer, Town of Harrisville  
[Redacted] DES Enforcement Coordinator  
Public Information Officer, DES PIP Office  
Michael J. Walls, Sr. Assistant Attorney General  
Doug Kemp, SWMB Inspector  
FA File



**State of New Hampshire**  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2900 FAX (603) 271-2456



Board of Selectmen  
Town of Harrisville  
PO Box 34  
Harrisville, NH 03450

Administrative Order  
No. WMD 01-04  
April 12, 2001

### **A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to the Town of Harrisville pursuant to RSA 149-M:15. This Administrative Order is effective upon issuance.

### **B. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. The Town of Harrisville ("Town") is a duly constituted municipality of the State of New Hampshire having a mailing address of PO Box 34, Harrisville, NH 03450.

### **C. STATEMENTS OF FACTS AND LAW**

1. Pursuant to RSA 149-M, DES regulates the management and disposal of solid waste. Pursuant to rulemaking authority conferred thereby, the Commissioner of DES has adopted Env-Wm 100 – 300, 2100 et seq. ("Solid Waste Rules") to implement this program.
2. The Town is the owner of a municipal solid waste landfill ("MSWLF") unit located on Willard Hill Road in Harrisville, NH ("Facility").
3. A temporary solid waste management facility permit No. DES-SW-TP-95-011 ("the Permit") was issued to the Town by DES on March 22, 1995.
4. Pursuant to federal regulation 40 CFR Part 258.74, MSWLF units that continued to receive waste after October 9, 1991, and did not complete capping the facility by October 9, 1994, are required to provide financial assurance on or before April 9, 1997.
5. The United States Environmental Protection Agency ("USEPA") has granted authority to DES to implement and enforce federal regulation 40 CFR Part 258.
6. RSA 149-M:9,X requires a solid waste facility to provide evidence of financial responsibility under the terms and conditions required in rules adopted by DES.

7. The rules DES has adopted to implement RSA 149-M:9,X are Env-Wm 3100.
8. Env-Wm 3103.01 requires a permittee to establish, implement, and maintain an approved financial assurance plan to guarantee the cost of facility closure.
9. The Town continued to receive waste at the Facility after October 9, 1991, and did not complete capping the Facility by October 9, 1994.
10. As of the date of this order, the Town has not provided a complete financial assurance plan to DES for the closure and post-closure costs of the Facility despite numerous reminders, assistance, and requests as outlined below:
  - (a) 5/22/00 A reminder letter was sent from DES to the Town stating that updated financial assurance information was due on or before June 30, 2000.
  - (b) 8/2/00 Since a Chief Financial Officer (CFO) letter received by DES from the Town only made reference to post-closure costs, DES sent a letter to the Town requesting updated cost estimates reflecting costs for both the closure and post-closure care of the facility.
  - (c) 8/15/00 DES called the Town and supplied the Town with information regarding cost estimates and a phone number at which the DES inspector for the Town's municipal landfill could be reached if technical questions arose.
  - (d) 8/30/00 DES called the Town and was informed that an engineering firm was in the process of preparing the required cost estimates. DES requested that all final financial assurance information in the form of updated cost estimates be submitted to the Department by September 7, 2000.
  - (e) 10/11/00 DES called the Town and was informed that the engineers were still working with the Town in regard to cost estimates and that the Town would get back to DES with the status of the estimates.
  - (f) 10/31/00 DES issued Letter of Deficiency WMD 00-27 to the Town.
  - (g) 11/29/00 DES called the Town and was referred to the Town's engineering firm. DES called the engineering firm and was informed that the firm had been contacted by the Town to do work on cost estimates, and that the firm was attempting to work out a budget agreement with the Town. The firm expected to reach an agreement within a couple of weeks. No cost estimates were being prepared at that time.
  - (h) 1/24/01 DES called the Town's engineering firm to inquire about cost estimates and was told that though the Town had requested estimates, these were not yet in the process of being prepared.

11. As of April 12, 2001, DES has not received all of the required financial assurance information from the Town of Harrisville, and the Town has not contacted DES to report on the status of the cost estimates.

#### **D. DETERMINATION OF VIOLATIONS**

1. The Town has violated RSA 149-M:9,X, Env-Wm 3103.01 and federal regulation 40 CFR Part 258.74 by failing to submit all of the required financial assurance information to DES.

### E. ORDER

Based on the above findings, DES hereby orders the Town of Harrisville as follows:

1 Within fourteen (14) calendar days of the receipt of this Order, submit to DES:

(a) updated cost estimates accompanied by complete financial assurance documents such as a letter of credit, surety bond, or trust account, in an amount to cover all closure costs and 30 years of costs associated with post closure monitoring and maintenance; or

(b) complete proof of financial strength pursuant to the State of New Hampshire's Local Government Test or Guarantee as required in 40 CFR Part 258.74 and Env-Wm 3100 of the Rules by submitting cost estimates for closure and post-closure care.

Please send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Mr. Richard S. Reed, Administrator  
Solid Waste Management Bureau  
NHDES, Waste Management Division  
6 Hazen Drive  
Concord, NH 03301-6509

### F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council, by filing an appeal that meets the requirements specified in Env-WMC 200 Procedural Rules within 30 days of the date of this Order. Copies of the rules are available from DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Town of Harrisville of the obligation to comply with the Order.

### G. OTHER PROVISIONS

Please note that RSA 149-M provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Town of Harrisville remains obligated to comply with all applicable requirements, in particular providing the Department of Environmental Services with updated cost estimates for the purpose of meeting current financial assurance requirements. DES will continue to monitor the Town of Harrisville's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

  
**COPY**  
Philip J. O'Brien, Ph.D., Director  
Waste Management Division

  
**COPY**  
Robert W. Varney, Commissioner  
Department of Environmental Services

CERTIFIED MAIL/RRR # 7099 3400 0003 0565 5110

cc:

**[REDACTED]**

Public Information Officer, DES PIP Office

Michael J. Walls, Sr. Assistant Attorney General

Constance Boyd, Treasurer, Town of Harrisville

Doug Kemp, SWMB Inspector

FA File